

REMARKS

This Amendment is submitted in response to the Office Action mailed June 2, 2006. The Examiner has rejected claims 1-19 in the application. Claims 1, 2, and 4-16 are rejected under 35 USC Section 103(a) over Leonard et al. (4,925,226) in view of Shields (3,796,404). Claims 1-, 3 17, and 19 are rejected under 35 USC Section 103(a) over Reich (3,368,838) in view of Shields (3,796,404). Claim 18 is rejected under 35 USC Section 103(a) over Reich (3,368,838) in view of Shields (3,796,404) and in further view of Holden (1,866,350).

Traverse of Rejections under 35 USC Section 103(a) - Claims 1, 2, and 4-16.

The Examiner has rejected claims 1, 2, and 4-16 under 35 USC Section 103(a) over Leonard Jr. et al.(patent no. 4,925,226) in view of Shields (patent no. 3,796,404).

CLAIM 1

The Applicant has carefully reviewed the Examiner's arguments and disagrees with the Examiner's argument because (a) the elements for *prima facie* obviousness (see MPEP 706.02(j)) have not been met by the prior art reference combination proposed by the Examiner, and (b) the claim as amended includes features not disclosed by the Examiner's proposed combination of references.

(a) There is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

Specifically, the examiner asserts that "it would have been obvious to one of ordinary skill in the art to modify the entry hole (15) of the corner fitting of Leonard, Jr. et al. (hereafter "Leonard") to include slots with confining ends as taught by shields so that the weighted body

cross bar (26) could be further restricted from passing through the hole and disengaging from the corner fitting and consequently dropping the load.

The Applicant traverses this rejection because the Examiner has not put forth an objective and realistic motivation for making the combinations alleged. The motivations for making the combinations stated by the Office are vague general benefits observed in hindsight. These are not real reasons an actual artisan in the field at the time would have seen to use each element together. The 35 USC 103 rejections therefore fail to make a prima facie case of obviousness.

For Example, one key feature of the Leonard et al. lifting apparatus is the lock plug (31) to prevent the hook from inadvertently coming out of the slot (15). If a greater number of slots were incorporated into the Leonard design, it is likely that the lock plug would then not be effective for preventing the hook from leaving one of the multiple slots. Multiple slots would reduce the safety of the Leonard design. Consequently, such combination would not be obvious to one of ordinary skill.

(b) The combination proposed by the Examiner does not create the Applicant's claimed invention (as amended).

The Applicant has amended claim 1 to read as follows:

1. (Currently amended) A lifting device for moving an item relative to a support surface, the lifting device comprising:

a catch including a top panel, said top panel having a top surface, a bottom surface and at least one slot, said at least one slot comprising a confining end and a receiving end open to an entry hole in said top panel, and wherein said entry hole in said top panel is positioned within a concave depression in said top panel,

a bob including weighted body, said weighted body being insertable through said entry hole in said top panel, but not through said at least one slot, and a tether attached to said bob.

Neither Leonard nor Shields disclose the limitation: "said entry hole in said top panel is positioned within a concave depression in said top panel". This limitation is important because the concave depression improves the ease with which the bob will find the entry hole. If the bob hits the surface of the catch the slope of the concave depression will tend to urge the bob into the entry hole. Both the Shields device and Leonard device do would not need such feature because the catches and bobs are directly manually coupled by a user, whereas the user of the applicant's device typically will be remote from the bob and catch; lowering the bob to the catch below.

CLAIM 2

Claim 2 as amended includes a limitation not found in the references cited by the Examiner. Claim 2 reads as follows:

2. (Currently amended) The portable lifting device of claim 1 further comprising a securing means for removably attaching said catch to said load to be moved.

The catch of Leonard is not removably coupled.

CLAIMS 4-8

In addition to novel and nonobvious features in claims 4-8 that are not disclosed in the cited references, claims 4 to 8 depend from claim 1, which has previously been shown to be allowable. Thus claims 4-8 are also allowable by virtue of their dependence on claim 1.

CLAIM 9

Claim 9 as amended includes a limitation not found in the references cited by the Examiner. Claim 9 reads as follows:

9. (Currently amended) The portable lifting device of claim 1, further comprising a means for removably securing said catch to an object to be lifted.

The catch of Leonard is not permanently secured.

CLAIM 10

The Examiner argues that Shields discloses a strap (30) for securing vessel 8, and that this is analogous to Applicant's claim 10 which reads as follows:

10. (Previously presented) The portable lifting device of claim 2, wherein said securing means comprises at least one strap.

However, the Applicant respectfully notes that claim 10 depends on claim 2 which reads as follows as amended (emphasis added);

2. (Currently amended) The portable lifting device of claim 1 further comprising a securing means for removably *attaching said catch* to said load to be moved.

Shields does not attach the catch to the load with a strap. Rather, the bob (or hook 26) attaches to a strap and the load. Thus Shields does not disclose this claimed limitation.

CLAIM 11

The Examiner asserts that it would have been obvious to add 4 slots to the device of Leonard.

The Applicant traverses this rejection because the Examiner has not put forth an objective and realistic motivation for making the combinations alleged. The motivations for making the combinations stated by the Office are vague general benefits observed in hindsight. These are not real reasons an actual artisan in the field at the time would have seen to use each element together. The 35 USC 103 rejections therefore fail to make a prima facie case of obviousness.

One key feature of the Leonard lifting apparatus is the lock plug (31) used to prevent the hook from inadvertently coming out of the slot (15). If a greater number of slots were incorporated into the Leonard design, it is likely that the lock plug would then not be effective for preventing the hook from leaving one of the multiple slots. Multiple slots would reduce the safety of the Leonard design. Consequently, such combination would not be obvious to one of ordinary skill.

CLAIMS 12-14

In addition to novel and nonobvious features in claims 12 – 14 that are not disclosed in the cited references, claims 12 - 14 depend from claim 1, which has previously been shown to be allowable. Thus claims 12 - 14 are also allowable by virtue of their dependence on allowable claim 1.

CLAIMS 15-16

The Examiner has cited the combination of Shields and Loenard against claims 15 and 16. However claims 15 and 16 include novel and non-obvious method steps not disclosed by the cited references. Claims 15 (as amended) and 16 read as follows:

15. (Currently amended) A method for selectively moving a load between a low position and an elevated position, the steps comprising:

- a. providing a portable lifting device comprising a catch including a top panel, said top panel having a top surface, a bottom surface and at least one slot, said at least one slot comprising a confining end and a receiving end open to an entry hole in said top panel, and wherein said entry hole in said top panel is positioned within a concave depression in said top panel, a bob including weighted body, a shank projecting from said weighted body, and a tether anchor connected to said shank, said weighted body being insertable through said entry hole in said top panel, but not through said at least one slot, said at least one slot being sized to receive said shank, a tether attached to said tether anchor;
- b. securing said catch to the load;
- c. lowering said bob to said catch and allowing said weighted body of said bob to pass through said entry hole;
- d. moving said shaft into one said slot;
- e. applying a vertical force to said tether causing said weighted body to contact said bottom surface of said top panel; and
- f. adjusting a length of tether between a user and said tether anchor to raise or lower the load.

16. (Previously presented) The method of claim 15 further comprising the steps:

- g. lowering the load to a support surface;
- h. allowing said shaft to move in said slot toward said entry hole; and
- i. pulling said weighted body upward through said entry hole.

In addition to other novel and non-obvious features in the Applicant's claims 15 and 16, neither Leonard nor Shields disclose the limitation: "said entry hole in said top panel is positioned within a concave depression in said top panel". This limitation is important because the concave depression performs two functions not found in Leonard or Shields. Firstly, the depression improves the ease with which the bob will find the entry hole. If the bob hits the surface of the catch the slope of the concave depression will tend to urge the bob into the entry hole. Both the Shields device and Leonard device would not need such feature because the catches and bobs are directly manually coupled by a user, whereas the user of the applicant's device typically will be remote from the bob and catch; lowering the bob the catch below.

SUMMARY

In accord with the discussions above, the Applicant respectfully requests that the Examiner allow claims 1, 2, and 4-16.

Traverse of Rejections under 35 USC Section 103(a) - Claims 1, 3, 17, and 19.

The Examiner has rejected claims 1, 3, 17, and 19 under 35 USC Section 103(a) over Reich (3,368,838) in view of Shields (3,796,404).

CLAIM 1

The Applicant has carefully reviewed the Examiner's arguments and disagrees with the Examiner's position because the elements for *prima facie* obviousness (see MPEP 706.02(j)) have not been met by the prior art reference combination proposed by the Examiner because (in addition to other reasons) there was no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

For example, the Examiner asserts “It would have been obvious to one of ordinary skill in the art to modify the entry hole of Reich to include engagement slots on the top panel of the corner fittings as taught by Shields in order to quickly engage and lock the weighted body within the corner fittings with fewer twisting operations.”

However, the motivations for making the combinations stated by the Office are vague general benefits observed in hindsight. These are not real reasons an actual artisan in the field at the time would have seen to use each element together. The 35 USC 103 rejections therefore fail to make a prima facie case of obviousness.

For example, the Examiner has not addressed the Applicant’s previously stated arguments for nonobviousness, including the following: The Reich device is designed for lifting shipping containers. Such devices must be able to lock into connection with the container so that the connection will not be released in the event of a sudden weight shift or angled displacement of the container or via slackening of the hoist cable. The shields reference does not have the same consideration because the device disclosed therein is not used to move items relative to a support surface, so no complicated locking apparatus is required. The combination would not create an acceptable solution for the problems addressed by the cited references.

One aspect of the Applicant’s inventive insight not recognized in the prior art is that there are many circumstances in which a load can be safely lifted with a device as claimed by the Applicant despite issues of sudden weigh shift or angled displacement. Using open unlocked slots.

If this inventive insight is not recognized, then the combination would not be obvious, because the design would be considered unsafe. The Applicant’s claimed invention proposes a solution that was not acceptable or obvious to those of ordinary skill lacking the same inventive insight.

Therefore, there is no suggestion or motivation in either reference to modify the reference or to combine reference teachings, nor is there suggestion or motivation in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

CLAIM 3

Claim 3 has been cancelled and the limitation of claim 3 have been added to claim 1.

CLAIM 17

The Applicant has carefully reviewed the Examiner's arguments and disagrees with the Examiner's argument because (a) the elements for *prima facie* obviousness (see MPEP 706.02(j)) have not been met for the same reasons described under the traverse of the rejection of claim 1 under 35 USC Section 103(a), above.

Furthermore, claim 17 has been amended to add the limitation that the catch may be removeably attached to the load. The catch of Reich is not removeably coupled.

CLAIMS 18 and 19

Claims 18 and 19 have been cancelled to facilitate prosecution, but the Applicant reserves the right to reassert the cancelled claims.

SUMMARY

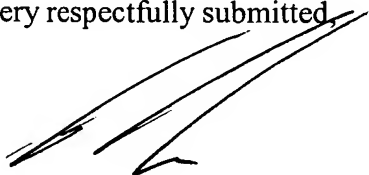
In accord with the discussions above, the Applicant respectfully requests that the Examiner allow claims 1 and 17.

CONCLUSION

For all the reasons above, Applicant submits that the claims all define novel subject matter that is nonobvious. Therefore, allowance of these claims is submitted to be proper and is respectfully requested.

Applicant invites the Examiner to contact Applicant's representative as listed below for a telephonic interview if so doing would expedite the prosecution of the application.

Very respectfully submitted,



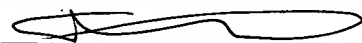
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Signature



Evanjin M. Dasalla

Date: December 4, 2006